

# News Release



***Controller of the State of California - Kathleen Connell***

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***For Immediate Release***

## ***CONTROLLER CONNELL'S LAWSUIT INITIATES RECOVERY OF ILLEGALLY HELD ESCROW FUNDS***

***Class Action Lawsuit And Preliminary Audits Uncover More Than \$13.6 Million Owed To Customers***

SACRAMENTO, December 1, 1999 -- State Controller Kathleen Connell's office has identified or recovered more than \$13.6 million owed to property buyers and sellers as the result of an audit performed in connection with a class action lawsuit filed on behalf of consumers earlier this year. The lawsuit alleged that California's title insurance and escrow industries engaged in illegal business practices in the administration of escrow accounts from 1970 to present, systematically charging for services never provided and failing to return unused funds to their escrow customers.

"The filing of this lawsuit has finally exposed the decades of consumer abuse that was systematically occurring in title and escrow transactions," said Connell. "Our audits confirmed our initial suspicions that title and escrow companies engaged in unlawful practices which cost home and business owners millions of dollars in escrow proceeds. It is my intention to recover every cent illegally withheld."

Since the lawsuit's filing, Connell's office has identified more than \$7.1 million owed to title customers alone from audits completed on 26 title companies and one escrow company. To date, 13 of the 27 companies audited have repaid more than \$2 million to the state. In addition, another \$6.5 million was voluntarily remitted to the Controller's Office from other title and escrow companies operating in California. Connell's office initiated audits on 50% of California's title companies and will expand auditing efforts to the escrow industry by July 2000. There are 114 active title companies and 471 escrow companies registered in California. Connell anticipates a much larger recovery of funds as audits expand to bigger companies.

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"The \$13 million we have already uncovered is significant, but we believe this amount will pale in comparison to what we expect to recover as the audits continue," said Connell. "My office mounted a massive audit effort that will eventually review every escrow and title company operating in California. They know we're coming and we've got their attention.

"As we complete audits and companies voluntarily forward unlawfully held funds to my office, we expect to see a tremendous surge in the amount of money owed to escrow customers. The bottom line is that many of these companies were aware they were engaged illegal business practices and we are beginning to see them step forward and sheepishly turn over funds." Connell added that total state receipts from title and escrow companies increased dramatically since the filing of the law suit -- from less than \$2 million during 1997 to \$8.5 million during the six months following the lawsuit filing.

Connell applauded the companies that voluntarily transferred over funds, but cautioned that these payments are only "the tip of the iceberg and we expect our audits will uncover substantially more in diverted funds owed to consumers." Connell's office estimates that as much as \$500 million could be owed to escrow consumers because some of these illegal actions have been continuing for 30 years. The lawsuit contended that escrow and title companies illegally held dormant and unclaimed escrow funds, retained fees charged to home buyers for services not rendered and retained interest on deposited escrow funds that should have been returned to customers. State law directs escrow and title companies to only "hold" transaction funds in accounts as a neutral third party and a fiduciary.

"Anyone who has ever employed the services of title or escrow agents should periodically check our Web site to see if they are entitled to recovered funds since new names are added weekly," said Connell, whose office released a database of people currently owed funds. "Home buyers should be acutely aware that at the close of escrow their accounts should total out at zero, with all charges and costs accounted for. Any remaining funds should be immediately returned to the buyers and sellers."

Under California's Unclaimed Property Law, the majority of the illegally held escrow funds must be immediately escheated to the State. This law requires financial institutions to send to the State all assets that have been dormant for three years. The law also applies to the funds left unclaimed in escrow accounts. The class action lawsuit was originally filed in Sacramento County Superior Court on May 19. Escrow customers can determine if they are owed funds by visiting the [Unclaimed Property Bulletin Board](#) at the State Controller's Web site at [www.sco.ca.gov](http://www.sco.ca.gov).